

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSEPH HOLLAND,

Plaintiff,

v.

CITY OF SEATTLE, *et al.*,

Defendants.

Case No. C17-0170-RSM-MAT

ORDER RE: PLAINTIFF'S REQUEST  
FOR DISMISSAL

This is a civil rights action proceeding under 42 U.S.C. § 1983. Plaintiff submitted his complaint to the Court for filing on February 2, 2017. (Dkt. 1.) Plaintiff failed, however, to submit with his complaint either the filing fee or an application to proceed with this action *in forma pauperis*. The Clerk's Office therefore sent plaintiff a letter advising him of this deficiency and granting him thirty days to correct it. (See Dkt. 3.) Plaintiff timely corrected the deficiency by submitting an application to proceed with this action *in forma pauperis* on February 23, 2017. (Dkt. 4.) On February 27, 2017, the Court granted plaintiff's application to proceed *in forma pauperis* and his complaint was filed. (See Dkts. 5 and 6.) On the same date, this Court issued an Order declining to serve plaintiff's complaint and granting him leave to file an amended complaint correcting certain specified deficiencies. (Dkt. 7.)

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1 On March 17, 2017, the Court received a letter from plaintiff in which he expresses  
2 confusion over the fact that he had submitted a form demonstrating his inability to pay the filing  
3 fee, but then received an Order from the Court advising him that he was going to be charged  
4 anyway. (Dkt. 8.) Plaintiff indicates that he cannot, and will not, pay the filing fee while he is  
5 incarcerated and he therefore asks that this action be dismissed. (*Id.*)

6 Pursuant to 28 U.S.C. § 1915(a), a Court may authorize the commencement of an action  
7 without the prepayment of fees. However, when a prisoner is granted leave to proceed without the  
8 prepayment of fees, the prisoner-plaintiff is still required to pay the full amount of the filing fee,  
9 he or she is simply permitted to do so over time rather than paying the entirety of the fee up front.  
10 See 28 U.S.C. § 1915(b). As a part of his *in forma pauperis* application, plaintiff signed an  
11 Acknowledgement and Authorization form which makes clear that he is responsible for payment  
12 of the full filing fee under § 1915. (See Dkt. 4 at 3.)

13 Because plaintiff has now formally requested, and been granted, *in forma pauperis* status,  
14 he will remain responsible for the filing fee even if he elects not to proceed with this action. This  
15 means that the facility in which plaintiff is confined will automatically remove funds from his  
16 inmate account when the criteria specified in the Court's Order granting plaintiff leave to proceed  
17 *in forma pauperis* (Dkt. 5) are met, and will forward those funds to the Court. Given that plaintiff  
18 will remain obligated to pay the filing fee whether or not he chooses to proceed with this action,  
19 the Court deems it appropriate to inquire of plaintiff whether he indeed wishes to have this action  
20 dismissed at this juncture, or whether he would prefer to proceed.

21 Accordingly, the Court hereby ORDERS as follows:

22 (1) Not later than **May 1, 2017**, plaintiff shall either file an amended complaint  
23 consistent with the Order declining to serve his original complaint which was issued by this Court

1 on February 27, 2017, or he shall advise the Court that he does, in fact, wish to dismiss this action.  
2 If plaintiff fails to communicate his intention to the Court by the date set forth above, the Court  
3 will dismiss this action for failure to prosecute.

4 (2) The Clerk is directed to send copies of this Order to plaintiff and to the Honorable  
5 Ricardo S. Martinez.

6 DATED this 31st day of March, 2017.

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9 Mary Alice Theiler  
United States Magistrate Judge